

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-3, 9, 11-12, 17 and 19-20 stand rejected under 35 USC §103(a) over Diry in view of Schaupp. Claims 4-8, 10, 13-16 and 18 stand rejected under 35 USC §103(a) over Diry and Schaupp in view of Pasbrig. Claims 2, 5-6, 8, 11-14 and 16-20 have been cancelled, thus rendering the rejections against those claims moot.

With regard to claim 1, it requires a thin film heater element that is one of attached to or embedded in a wall of the filter assembly housing. The only reference of record that teaches a thin film heater is Pasbrig. It would be unfair to characterize Diry, Schaupp or any other reference of record as teaching a thin film heater. Although Pasbrig does teach a thin film heater, it explicitly teaches away from an attachment or embedment when it states at column 5 lines 9-12 that “[T]he component parts are easy to disassemble, for example for cleaning purposes, and thus are also easily exchangeable.” Thus, Pasbrig can only be fairly interpreted as teaching away from Applicants’ claimed attachment or embedment. The MPEP forbids modification of a reference against its own teachings in order to support a §103(a) rejection. Apart from this fact, claim 1 also requires that the filter assembly housing include a fuel pump positioned therein. There should be no dispute that Pasbrig fails to show or suggest the inclusion of a fuel pump in its housing. Therefore, it is uncertain where any motivation would come to urge one with ordinary skill in the art to modify Pasbrig to include a pump in its housing, let alone whether such a modification would fall into the realm of routine skill or require innovation of a type forbidden by the MPEP. The office action identifies Schaupp as teaching Applicants’ claimed pump. However, Applicants’ claims require that the pump be in the housing whereas Schaupp clearly shows a priming pump with a handle extending through the housing. Applicants’ respectfully assert that no priming pump of

the type taught by Schaupp could be both positioned in the filter assembly housing and still remain operable. Thus, even if one with ordinary skill were motivated to modify Pasbrig to include the pump of Schaupp, and could incorporate the Schaupp pump with only routine skill, the resulting filter assembly would still be something different than that required by Applicants' claim 1. Therefore, because none of the references of record teach Applicants' thin film heater element attached to or embedded in a wall of the filter assembly, nor the inclusion of a pump in the filter assembly housing, Applicants claim cannot properly be read onto any fair combination of the cited references of record. Therefore, Applicants respectfully request that the outstanding §103(a) rejection against claim 1 and its dependent claims be withdrawn.

With regard to claim 3, it should be allowable over and above the reasons set forth with regard to claim 1 since it requires that a water drain valve be attached to the filter assembly housing. Again, Pasbrig fails to show or suggest such a feature, and to include such a feature would appear to require that Pasbrig be modified against its own teachings, which is forbidden by the MPEP. In other words, it would be unfair to assert that one with ordinary skill in the art would be motivated to modify Pasbrig to include a water drain as required by Applicants' claims, and do so without abandoning the nested component structure explicitly taught by Pasbrig. Therefore, Applicants respectfully assert that the outstanding rejection against claim 3 should be withdrawn over and above the reasons set forth with regard to claim 1.

Claim 4 should also be allowable over and above the reasons set forth with regard to claim 1 because it specifically requires that the thin film heater element be embedded in the wall of the filter assembly housing. The quick disassembly for cleaning and replacement of the Pasbrig components is the antithesis of Applicants' required

embedding. Therefore, Applicants must again respectfully request that the rejections against claim 4 be withdrawn over and above the reasons set forth with regard to claim 1.

With regard to claim 9, it requires a thin film heater element, a water drain attached to the filter assembly housing, and a fuel pump positioned in the housing. As stated earlier, only Pasbrig can be fairly interpreted as teaching a thin film heater as required by Applicants claims'. However, Pasbrig fails to show or suggest either a water drain attached to its filter assembly or the inclusion of a fuel pump in its housing. While it is true that there are many references that teach the inclusion of a drain valve attached to a filter assembly housing, there is no implicit or explicit motivation to do so to be found in Pasbrig, let alone whether such a modification could be accomplished without destroying the structure of the Pasbrig filter assembly. In addition, even if one were motivated to modify Pasbrig to include a pump, such as that taught by Schaupp, the resultant combination would still be different than Applicants' claimed invention. In other words, no priming pump of the type taught by Schaupp can be said to be positioned in the housing as required by Applicants' claims. Therefore, there are no references of record that teach Applicants' pump in housing limitation. Therefore, the outstanding rejections against claim 9 and its dependent claims should be withdrawn.

Claim 10 should be allowable over and above the reasons set forth with regard to claim 9 since it requires that the thin film heater element be embedded in a wall of the filter assembly housing. Again, Pasbrig explicitly teaches away from embedding by teaching easy disassembly for cleaning and/or replacement of component parts. Thus, claim 10 should be allowable over and above the reasons set forth with regard to claim 9.

Claim 15 should also be allowable over and above the reasons set forth with regard to claim 9 because it requires that the thin film heater element be attached to the wall of the filter assembly housing. Again, Pasbrig explicitly teaches away from this limitation, and therefore any modification of Pasbrig to arrive at Applicants' claimed

invention would be forbidden as a modification against the explicit teachings of the reference. Therefore, Applicants respectfully request that the rejection against claim 15 be withdrawn over and above the reasons set forth with regard to claim 9.

In view of the amending changes made and arguments submitted, this application is believed to be in condition of allowance of claims 1, 3-4, 7, 9-10 and 15. However, if the examiner believes that some additional minor clarification would put this application in even better condition for allowance, the examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,



Michael B. McNeil  
Reg. No. 35,949